

## THE COMMONWEALTH OF MASSACHUSETTS

*In the Year One Thousand Nine Hundred and Ninety-one*

AN ACT RELATIVE TO MITIGATING THE EFFECTS OF INTERNAL REVENUE SERVICE REGULATIONS CONCERNING SOCIAL SECURITY COVERAGE FOR PART TIME EMPLOYEES OF THE COMMONWEALTH AND ITS POLITICAL SUBDIVISIONS.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide for participation in a deferred compensation plan that will meet the requirements of regulations promulgated by the Internal Revenue Service, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Section 64 of chapter 29 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by adding the following three paragraphs:-

The state treasurer, on behalf of the commonwealth, shall contract with every person, who is receiving compensation from the commonwealth for services performed for the commonwealth and who is not eligible for membership or has exercised an option not to participate in the state retirement system set forth in chapter thirty-two, to defer a portion of that person's compensation, and shall invest the deferred portion of that person's income in a deferred compensation program established in accordance with said Code. For persons holding positions which would have rendered the holder of the position eligible for participation in the commonwealth's deferred compensation program on November fifth, nineteen hundred and ninety, the state treasurer shall contract for plan years prior to January first, nineteen hundred and ninety-three, to defer six percent of that person's regular compensation, as defined in section one of chapter thirty-two for the period subsequent to December thirty-first, nineteen hundred and forty-five, but no greater than the maximum deferral allowable for that person pursuant to the provisions of said Code for government deferred compensation programs. For persons holding positions which would not have rendered the holder of the position eligible for

participation in the commonwealth's deferred compensation program on November fifth, nineteen hundred and ninety, the state treasurer shall contract to defer seven and one-half percent of that person's regular compensation, as defined in said section one of said chapter thirty-two for the period subsequent to December thirty-first, nineteen hundred and forty-five, but no greater than the maximum deferral allowable for that person pursuant to the provisions of said Code for government deferred compensation programs.

Notwithstanding the provisions of this section, the state treasurer need not contract with any part-time, seasonal or temporary employee not required by said Code to participate in a public retirement system. All contracts formed with part-time, seasonal or temporary employees pursuant to the provisions of the previous paragraph shall entitle the employee to a single-sum distribution of the employee's deferrals plus reasonable interest.

Nothing in this section shall be construed to create or grant any rights not previously enjoyed under chapter thirty-two A or one hundred and fifty E.

SECTION 2. Said chapter 29 is hereby further amended by inserting after section 64C the following section:-

Section 64D. Any governmental body, as defined in section sixty-four B, may require any person, who is receiving compensation from the governmental body for services performed and who is not a member of a retirement system as provided under chapter thirty-two or any other retirement system which meets the requirements of Section 3121 (b)(7)(F) of the Internal Revenue Code and the regulations promulgated thereunder, to participate in the deferred compensation program established with regard to the governmental body, or tax sheltered annuity or any other defined contribution plan. The treasurer, or if there is no treasurer, the chief financial officer by whatever name that person is called, on behalf of a governmental body which has accepted the provisions of this section shall contract with any person, who is receiving compensation from the governmental body for services performed for the governmental body and who is not eligible for membership in the retirement system set forth in said chapter thirty-two that pertains to the governmental body, to withhold from that person's compensation at least such amounts as are necessary to provide the minimum level of benefits required to qualify said deferred compensation program, tax sheltered annuity or other defined contribution plan as a retirement system for said person as defined under said Section 3121 (b)(7)(F)

of said Code and the regulations promulgated thereunder but no greater than permitted under other provisions of the Internal Revenue Code.

All contracts formed with part-time, seasonal or temporary employees pursuant to the provisions of the first paragraph shall entitle the employee to a single-sum distribution of the employee's deferral plus reasonable interest.

A governmental body may accept the provisions of this section by a majority vote of the selectmen for a town, the city council for a city, the county council for a county, the district members in a district, the members of the authority in an authority, and the governing body, by whatever name and in whatever form composed, in any other political subdivision, body politic and corporate, or public instrumentality created by the commonwealth.

Any governmental body already requiring, on the effective date of this act, participation in a public retirement system for persons who are receiving compensation from the governmental body for services performed and who are not members of a retirement system as provided under said chapter thirty-two shall be deemed to have accepted the provisions of this section without the requirement of a majority vote of the selectmen for a town, the city council for a city, the county council for a county, the district members in a district, the members of the authority in an authority, and the governing body, by whatever name and in whatever form composed, in any other political subdivision, body politic and corporate, or public instrumentality created by the commonwealth.

SECTION 3. Chapter 32 of the General Laws is hereby amended by inserting after section 3 the following section:-

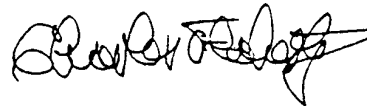
Section 3A. Notwithstanding the provisions of any general or special law to the contrary, a person receiving compensation from the commonwealth for services performed for the commonwealth who is not eligible for membership in the state retirement system shall be subject to the provisions of section sixty-four of chapter twenty-nine.

SECTION 4. Section 34A of chapter 235 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in lines 2 and 3, the words "or individual retirement account".

SECTION 5. Said section 34A of said chapter 235, as so appearing, is hereby further amended by inserting after the figure "1974", in line 4, the words ", or in an individual retirement account established and maintained in accordance with section 408 of the Internal Revenue Code as codified at 26USC408".

House of Representatives, December 27, 1991.

Preamble adopted,

 Speaker.

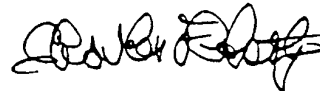
In Senate, December 27, 1991.

Preamble adopted,

 , President.

House of Representatives, December 27, 1991.

Bill passed to be enacted,

 , Speaker.

In Senate, December 27, 1991.

Bill passed to be enacted,

 , President.

31 December , 1991.

Approved,

at eleven o'clock and 48 minutes, A . M.



Governor.